

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALVIN AUBREY ROE,

Defendant.

CR 17-16-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Alvin Aubrey Roe (Roe) has been accused of violating the conditions of his supervised release. Roe admitted all of the alleged violations, except alleged violation 8. The Court dismissed alleged violation 8 on the government's motion. Roe's supervised release should be revoked. Roe should be placed in custody for 4 months, with 10 months of supervised release to follow. Roe should serve the first 90 days of supervised release in a secure inpatient drug treatment facility such as Connections Corrections.

II. Status

Roe pleaded guilty to Possession of Stolen Firearms on May 23, 2017. (Doc. 106). The Court sentenced Roe to 33 months of custody, followed by 2 years of supervised release. (Doc. 172). Roe's current term of supervised

release began on December 7, 2022. (Doc. 326 at 2).

Petition

The United States Probation Office filed a Second Amended Petition on May 26, 2023, requesting that the Court revoke Roe's supervised release.

(Doc. 326). The Second Amended Petition alleged that Roe had violated the conditions of his supervised release: 1) by using marijuana; 2) by failing to follow the instructions of his probation officer on three separate occasions; 3) by failing to report to his probation officer as directed; 4) by failing to notify his probation officer of his arrest by law enforcement; 5) by failing to notify his probation officer of a change in residence; and 6) by committing another crime.

Initial appearance

Roe appeared before the undersigned for his initial appearance on the Second Amended Petition on May 30, 2023. Roe was represented by counsel. Roe stated that he had read the petition and that he understood the allegations. Roe waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on May 30, 2023. Roe admitted that he had violated the conditions of his supervised release: 1) by using

marijuana; 2) by failing to follow the instructions of his probation officer on three separate occasions; 3) by failing to report to his probation officer as directed; 4) by failing to notify his probation officer of his arrest by law enforcement; and 5) by failing to notify his probation officer of a change in residence. The Court dismissed alleged violation 8 on the government's motion. The violations that Roe admitted are serious and warrant revocation of Roe's supervised release.

Roe's violations are Grade C violations. Roe's criminal history category is V. Roe's underlying offense is a Class C felony. Roe could be incarcerated for up to 24 months. Roe could be ordered to remain on supervised release for up to 14 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 7 to 13 months.

III. Analysis

Roe's supervised release should be revoked. Roe should be incarcerated for 4 months, with 10 months of supervised release to follow. This sentence is sufficient but not greater than necessary. Roe should serve the first 90 days of supervised release in a secure inpatient drug treatment facility such as Connections Corrections.

IV. Conclusion

The Court informed Roe that the above sentence would be recommended to

Chief United States District Judge Brian Morris. The Court also informed Roe of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Roe that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Roe stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Alvin Aubrey Roe violated the conditions of his supervised release: by using marijuana; by failing to follow the instructions of his probation officer on three separate occasions; by failing to report to his probation officer as directed; by failing to notify his probation officer of his arrest by law enforcement; and by failing to notify his probation officer of a change in residence.

The Court **RECOMMENDS:**

That the District Court revoke Roe's supervised release and commit Roe to the custody of the United States Bureau of Prisons for 4 months, with 10 months of supervised release to follow. Roe should serve the first 90 days of supervised release in a secure inpatient drug treatment facility such as Connections Corrections.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 31st day of May, 2023.



John Johnston
United States Magistrate Judge